

ESTTA Tracking number: **ESTTA246945**Filing date: **11/05/2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following parties request to cancel indicated registration.

**Petitioner Information**

Name	S.P.I. Spirits (Cyprus) Limited		
Entity	limited company	Citizenship	Cyprus
Address	through its Geneva Branch, 28th October Street, Lophitis Bus Ctr Limassol, 3035 CYPRUS		

Name	Spirits International B.V.		
Entity	private ltd. liability company	Citizenship	Netherlands
Address	through its Geneva Branch, 7, rue Nicolas Bove Strassen, L-1253 NETHERLANDS		

Attorney information	Marie A. Lavalleye, Esq. Covington & Burling LLP 1201 Pennsylvania Avenue, N.W. Washington, DC 20004 UNITED STATES trademarks@cov.com Phone:202-662-5439
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**Registration Subject to Cancellation**

Registration No	3345092	Registration date	11/27/2007
Registrant	Roust Trading Limited 18 Parliament Street Milner House Hamilton, HM12 BERMUDA		

**Goods/Services Subject to Cancellation**

Class 033. First Use: 2000/04/00 First Use In Commerce: 2006/09/19 All goods and services in the class are cancelled, namely: Alcoholic beverages, namely, vodka
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**Grounds for Cancellation**

Deceptiveness	Trademark Act section 2(a)
The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is primarily geographically descriptive	Trademark Act section 2(e)(2)
Other	laudatory

Related Proceedings	Notice of Opposition to Serial Number 76/675,645 and Petition for Cancellation of Registration Number 3,002,535
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Attachments	3345092 Petition for Cancellation.pdf ( 8 pages )(349974 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/mariealavalleye/
Name	Marie A. Lavalleye, Esq.
Date	11/05/2008



Petitioner S.P.I. Spirits (Cyprus) Limited imports and distributes vodka into the United States, through an authorized distributor, including vodka sold in the United States under the famous STOLICHNAYA trademark. Petitioner Spirits International B.V. is the owner of, or owns reversionary ownership interest in, the STOLICHNAYA trademark in the United States. Petitioners are sister companies owned by the same parent holding company.

Registration No. 3,345,092 is a registration on the Principal Register for the word mark RUSSIAN STANDARD (“Word Mark”). The term “Russian” has been disclaimed. The registration covers “alcoholic beverages, namely, vodka” in Class 33. The United States Patent and Trademark Office (“USPTO”) issued the registration on November 27, 2007 to Respondent Roust Trading Limited (“Respondent”), a Bermuda corporation, with a last known address of 18 Parliament Street, Milner House, Hamilton HM12, Bermuda.

As grounds for this petition, Petitioners allege:

### **COUNT I**

#### **The Word Mark Is Deceptive Because It Consists of the Words “Russian Standard”.**

1. The Russian Federation promulgates extensive official “standards” for alcoholic beverages, including vodka, that must be met by all Russian producers of alcoholic products. “Russian Standard” is therefore a term that is used and would be understood to refer to a product that meets the official “standard” for a particular alcoholic beverage.

2. Registrant’s registered Word Mark consisting of the phrase RUSSIAN STANDARD is deceptive within the meaning of Section 2(a) of the Lanham Act in that consumers are likely to believe, erroneously, that Respondent’s RUSSIAN STANDARD vodka is the only Russian vodka that meets a particular “standard”, including the official “standard” for Russian vodka promulgated by the Russian Federation, or that it is the standard for all Russian vodka.

3. The deception causing consumers to have such an erroneous belief is material, because it is likely to cause consumers to purchase vodka sold under Respondent's Word Mark in preference to competing Russian vodkas, including Petitioners' competing Russian vodka, in the mistaken belief that competing Russian vodkas that do not bear a RUSSIAN STANDARD mark or the phrase RUSSIAN STANDARD do not meet such standards.

4. Petitioners' STOLICHNAYA brand Russian vodka is sold in the United States, meets all of the requirements for Russian vodka promulgated by the Russian Federation, and qualifies as a "Russian Standard" vodka.

5. Petitioners thus will be damaged if Respondent, by virtue of Reg. No. 3,345,092, is allowed to sell vodka under a mark that consists of the phrase RUSSIAN STANDARD, to the exclusion of Petitioners, even though Petitioners' Russian vodka meets every applicable Russian standard.

6. Registrant is precluded from contesting this Count I by the doctrine of res judicata (claim preclusion), based on the judgment entered against Registrant in Cancellation Proceeding No. 92047125.

## **COUNT II**

### **The Word Mark Is Primarily Geographically Descriptive.**

7. Respondent's Word Mark is primarily geographically descriptive of Respondent's goods within the meaning of Section 2(e)(2) of the Lanham Act and therefore is not entitled to registration on the Principal Register.

8. The primary significance of the term RUSSIAN (a derivative of “Russia”, a generally known geographic location) is geographic. Indeed, Respondent admitted this fact when it disclaimed exclusive rights to the term RUSSIAN in Reg. No. 3,345,092.

9. Respondent also admitted during the examination phase of the Word Mark application that the goods identified in Reg. No. 3,345,092 originate in Russia.

10. Russia is generally known by U.S. consumers as a country that produces vodka, and vodka is closely associated with Russia in the minds of consumers.

11. For all these reasons, consumers who encounter the Word Mark are likely to believe, correctly, that the vodka sold under the Word Mark originates in Russia. The Word Mark is therefore primarily geographically descriptive and, as such, is not entitled to registration on the Principal Register.

12. Petitioners are, and will continue to be, damaged by the continued subsistence of Respondent’s Reg. No. 3,345,092, because Reg. No. 3,345,092 falsely suggests that the Word Mark is inherently distinctive as applied to Respondent’s goods and improperly grants Respondent exclusive rights to a mark that is primarily geographically descriptive.

13. Registrant is precluded from contesting this Count II by the doctrine of res judicata (claim preclusion), based on the judgment entered against Registrant in Cancellation Proceeding No. 92047125.

### **COUNT III**

#### **The Word STANDARD And The Phrase RUSSIAN STANDARD Are Both Laudatory And Merely Descriptive Of Respondent’s Goods.**

14. In Reg. No. 3,345,092, Respondent did not disclaim exclusive rights to the use of the word STANDARD. Nor did Respondent claim that the word STANDARD and/or the phrase RUSSIAN STANDARD have become distinctive of its goods.

15. Both STANDARD and RUSSIAN STANDARD, as applied to the goods covered by Reg. No. 3,345,092, are laudatory and descriptive of such goods.

16. STANDARD and RUSSIAN STANDARD, as applied to the goods covered by Reg. No. 3,345,092, are both laudatory in that each conveys to consumers that the products sold under that wording meet a certain standard, are the standard, or otherwise set the standard for vodka originating in Russia. Both, therefore, immediately impart a laudatory claim of superiority.

17. The words STANDARD and RUSSIAN STANDARD, as applied to Respondent's goods, also are descriptive of such goods in that they serve to inform consumers that Respondent's goods conform to standards applicable to alcoholic beverages originating from Russia, including the official standards specifically promulgated by the Russian Federation for alcoholic beverages of the type identified in Reg. No. 3,345,092 that are produced in Russia.

18. Petitioners have an equal right to use the phrase "Russian Standard" and the word "Standard" on or in connection with Petitioners' vodka products to inform consumers that its vodka products conform to applicable standards, including the Russian Government's standards for vodka products originating in Russia.

19. Accordingly, Petitioners are, and will continue to be, damaged by the continued subsistence of Respondent's Reg. No. 3,345,092, because Reg. No. 3,345,092 falsely suggests that the word STANDARD and the phrase RUSSIAN STANDARD are inherently distinctive as applied to Respondent's goods and improperly grants Respondent exclusive rights over the use of such descriptive and laudatory wording.

20. Registrant is precluded from contesting this Count III by the doctrine of res judicata (claim preclusion), based on the judgment entered against Registrant in Cancellation Proceeding No. 92047125.

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21. Respondent currently sells vodka in the United States. Respondent competes with Petitioners for sales of vodka in the United States. Petitioners and Respondent are competitors for the sale of vodka in the United States.

22. As competitors of Respondent for the sale of vodka in the United States, Petitioners believe that they are, and will continue to be, damaged by the continued registration of Reg. No. 3,345,092.

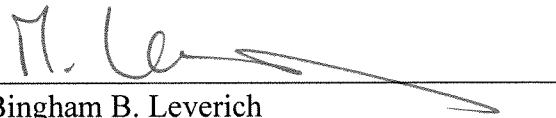
23. Accordingly, Petitioners respectfully request that the Board cancel Reg. No. 3,345,092.

24. In the alternative, as to Count III only, Petitioners request that the Board cause Reg. No. 3,345,092 to be amended to include a disclaimer of the word STANDARD and to be amended to registration on the Supplemental, rather than the Principal, Register.



WHEREFORE, Petitioners pray that this Petition for Cancellation be granted and that Registration No. 3,345,092 be cancelled. The USPTO is hereby authorized to charge any fees which may be required, or credit any overpayment, to Account No. 03-3412.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'M. L.', followed by a long, sweeping horizontal line that extends to the right.

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